

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

PHILLIP ANDREW BEDWELL, II,)
Plaintiff,)
v.) Civil Action No. 3:06-cv-00407-MEF-DRB
JAY JONES, et al.)
Defendants.)

PHILLIP ANDREW BEDWELL, II,)
Plaintiff,)
v.) Civil Action No. 3:06-cv-00448-WKW-DRB
JAY JONES, et al.)
Defendants.)

MOTION TO CONSOLIDATE

COME NOW the Defendants in the above styled causes, by and through their undersigned counsel, and move this Honorable Court to consolidate the above-styled matters. As reasons for so moving, Defendants state as follows:

1. The two lawsuits styled above have been filed by, and solely on behalf of, the Plaintiff, Phillip Andrew Bedwell, II. In Bedwell v. Jones, et.al., in the Middle District of Alabama 3:06-cv-00407-MEF-DRB (Bedwell I), Plaintiff named as Defendants Sheriff Jay Jones, Major Cary Torbert, Jr., and Lt. Corey Welch. In Bedwell v. Jones, et.al., in the Middle District of Alabama 3:06-cv-00448-WKW-DRB (Bedwell II), Plaintiff names as Defendants Sheriff Jay Jones,

Major Cary Torbert, Jr., and Lt. Corey Welch, and Lt. Ray Roberson. Therefore, all the Defendants in the two cases are the Sheriff of Lee County, Alabama, and his employees. Further, all Defendants in the two cases are identical except with respect to the addition of Lt. Ray Roberson in the latter case, who is also an employee of the Lee County Sheriff.

2. In "Bedwell I," Plaintiff alleges Defendants denied him access to religious programs and materials while housed at the Lee County Detention Center.¹ In "Bedwell II," Plaintiff alleges various violations of his rights with regard to his conditions of confinement at the Lee County Detention Center. Thus, both lawsuits arise out of the same facts and circumstances – the Plaintiff's treatment while housed at the Lee County Detention Center, and all testimony and other evidence will be overlapping with regard to addressing the Plaintiff's allegations in each case.

3. In both Complaints, Plaintiff seeks only injunctive relief. In "Bedwell I," the Plaintiff requests that religious programs be made available to all inmates. In "Bedwell II," the Plaintiff requests that he be transferred to the Department of Corrections as soon as possible. Defendants note that the Plaintiff has been transferred to the Department of Corrections as of June 30, 2006, mooting both lawsuits.²

4. The parties will not be prejudiced by a consolidation of these matters, and a consolidation will, in all respects, be in the best interest of both judicial economy, and the need of the parties to minimize expenditures.

WHEREFORE, PREMISES CONSIDERED, the Defendants respectfully request this Honorable Court consolidate the two above-styled cases.

¹ Because Lt. Roberson was not named as a Defendant in "Bedwell I," should this Court grant this Motion to Consolidate, the claims regarding religious programs and materials would be applicable to Sheriff Jay Jones, Major Cary Torbert, Jr., and Lt. Corey Welch only.

² See Cotterall v. Paul, 755 F.2d 777, 780 (11th Cir. 1985) (holding that prisoner's claim for injunctive relief was moot and properly dismissed, where prisoner had been transferred from county jail in which unconstitutional conditions allegedly existed); McKinnon v. Talladega County, 745 F.2d 1360, 1363 (11th Cir. 1984) ("The general rule is that a prisoner's transfer or release from a jail moots his individual claim for declaratory and injunctive relief." (citation omitted)).

Respectfully submitted this 7th day of July, 2006.

s/Amanda Kay Morgan
AMANDA KAY MORGAN (ALL079)
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CERTIFICATE OF SERVICE

I hereby certify that on this the **7th** day of **July, 2006**, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Phillip Andrew Bedwell, II
AIS # 221888
Lee County Detention Center
P.O. Box 2407
Opelika, AL 36801

s/Amanda Kay Morgan
OF COUNSEL